

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2313**

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**Introduced by Assembly Members Nestande and Olsen  
(Coauthor: Assembly Member Gray)**

February 21, 2014

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An act to add and repeal Title 11.8 (commencing with Section 14190.15) of Part 4 of the Penal Code, relating to metal theft, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2313, as amended, Nestande. Metal theft and related recycling crimes.

Existing law provides that any person who feloniously steals, takes, or carries away the personal property of another, or who fraudulently appropriates property that has been entrusted to him or her, is guilty of theft. Existing law also provides that a person who, being a dealer in or collector of junk, metals, or secondhand materials, buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass that he or she knows or reasonably should know is ordinarily used by, or ordinarily belongs to, a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, or city and county without using due diligence to ascertain that the person selling or

delivering the same has a legal right to do so, is guilty of criminally receiving that property.

~~Existing law requires the Office of Emergency Services to administer a comprehensive statewide domestic violence program to establish a targeted or directed program for the development and establishment of domestic violence service in currently unserved and underserved areas, and establishes a grant program administered by the Office of Emergency Services for the distribution of financial and technical assistance to domestic violence shelter service providers for this purpose.~~

*Existing law establishes the Department of Justice, which is headed by the Attorney General and tasked with, among other things, representing California in criminal cases.*

This bill, until December 31, 2020, would require the ~~Office of Emergency Services~~ *Department of Justice* to establish a Metal Theft Task Force Program to provide grants to applicant agencies for the purpose of providing local law enforcement and district attorneys with the tools necessary to successfully interdict the commission of metal theft and related metal recycling crimes. The bill would establish the Metal Theft Task Force Fund, to be administered by the ~~Office of Emergency Services~~, *Department of Justice*, and would continuously appropriate all moneys in that fund to the department for the purposes of the program. The bill would impose a fee, to be deposited into the fund, not to exceed 1% of the purchase price for each junk sale, which involves the sale of scrap metals ~~and or~~ alloys, on the seller of junk for the purpose of regulating that seller, thereby making an appropriation. The bill would exempt a junk sale or transaction, which involves the sale of scrap metals ~~and or~~ alloys, between junk dealers and recyclers, as defined, from the above-described fee. The bill would exempt a junk sale or transaction, which involves the sale of scrap metals ~~and or~~ alloys, by automobile dismantlers, as defined, from the above-described fee. ~~The bill would also specify that the provisions regarding the above-described fee would not apply to any secondhand dealers, coin dealers, and licensed pawnbrokers, as defined.~~

*This bill would exempt from the provisions of the act any junk sale or transaction, which involves the sale of scrap metals or alloys, involving a licensed pawnbroker, or a secondhand dealer or coin dealer doing business under a California secondhand dealer's license.*

The bill would require agencies receiving funding from the program to submit an annual report, as specified, and would require the ~~Office of Emergency Services~~ *Department of Justice* to use the information

in those reports to review the program and report to the Governor and the Legislature. The bill would require the ~~Office of Emergency Services~~ *Department of Justice* to submit a comprehensive report to the Legislature, no later than December 31, 2019, on the status and progress, since the year 2016, of the program in deterring, investigating, and prosecuting metal theft and related recycling crimes. The bill would specify that the program would not be implemented until the ~~Office of Emergency Services~~ *Department of Justice* determines that sufficient moneys have been deposited in the fund to implement the program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Title 11.8 (commencing with Section 14190.15)  
2 is added to Part 4 of the Penal Code, to read:

3  
4 TITLE 11.8. THEFT AND RECYCLING OF METALS

5  
6 14190.15. For the purposes of this title, the following  
7 definitions shall apply:

8 (a) “Agency” means a regional task force, a local law  
9 enforcement agency, or a district attorney.

10 (b) “Department” means the ~~Office of Emergency Services~~  
11 *Department of Justice*.

12 (c) “Fund” means the Metal Theft Task Force Fund.

13 (d) “Junk” *has the same meaning as set forth in Section 21600*  
14 *of the Business and Professions Code*.

15 (e) “Junk dealer” *has the same meaning as set forth in Section*  
16 *21601 of the Business and Professions Code*.

17 ~~(f)~~

18 (f) “Program” means the Metal Theft Task Force Program.

19 (g) “Recycler” *has the same meaning as set fourth in Section*  
20 *21605 of the Business and Professions Code*.

21 14190.20. (a) The Metal Theft Task Force Fund is hereby  
22 established within the Office of the Controller. Notwithstanding  
23 Section 13340 of the Government Code, the fund is hereby  
24 continuously appropriated to the department for the purposes set  
25 forth in this title. Transfers to the Metal Theft Task Force Fund  
26 shall be deposited with the Controller.

(b) The fund shall consist of moneys deposited into it from the federal government, industry, and private sources, and from fees collected pursuant to Section 14190.45. General Fund moneys shall not be deposited into the fund nor used to start up, implement, or support the continuing administration of the provisions of this title.

(c) The fund shall be administered by the department.

(d) Moneys distributed from the fund pursuant to the program established pursuant to Section 14190.25 are intended to ensure that local law enforcement and district attorneys are equipped with the necessary personnel and tools to successfully combat metal theft and related recycling crimes, which include, but are not limited to, all of the following offenses:

(1) The theft of metals, including, but not limited to, nonferrous metals.

(2) The purchase and recycling of stolen metals, including, but not limited to, recycled metal beverage containers, by recyclers.

(3) The transportation of stolen metals from junk dealers and recyclers in this state to another state.

(4) The transportation of stolen metals from another state to this state.

(5) Illegal recycling operations.

14190.25. (a) The department shall establish the Metal Theft Task Force Program. Administration of the overall program and the evaluation and monitoring of all grants made pursuant to this title shall be performed by the department.

(b) Moneys appropriated to the department for the program shall be expended for programs that enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute metal theft and related recycling crimes.

(c) After deduction of the department's actual and necessary administrative costs, the moneys in the fund shall be expended for programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute metal theft and related recycling crimes.

(d) Moneys distributed under this program shall be expended for the exclusive purpose of deterring, investigating, and prosecuting metal theft and related recycling crimes. Agencies that receive moneys pursuant to the program may consult with experts from the United States military, the California Military Department,

1 law enforcement entities, and various other state and private  
2 organizations, including pertinent trade associations, as necessary  
3 to maximize the effectiveness of this program.

4 14190.30. (a) The department shall develop administrative  
5 procedures for the selection of agencies to receive a grant under  
6 this program, which shall include, at a minimum, the following  
7 requirements:

8 (1) That each agency seeking a grant submit a written application  
9 to the department setting forth in detail the proposed use of the  
10 grant funds.

11 (2) That, if an applicant agency is a regional task force, the task  
12 force shall be identified by a name that is appropriate to the area  
13 that it serves and, in order to qualify for a grant, shall be comprised  
14 of local law enforcement and prosecutors from at least two  
15 counties.

16 (3) That priority be given to applicant agencies in areas with  
17 high rates of reported metal thefts.

18 (b) The department shall develop specific guidelines for the  
19 selection of agencies to receive a grant under this program. The  
20 guidelines shall include, at a minimum, all of the following  
21 selection criteria, which shall be considered by the department in  
22 awarding grants:

23 (1) The number of metal theft or related recycling crime cases  
24 filed in the immediately preceding year.

25 (2) The number of metal theft or related recycling crime cases  
26 investigated in the immediately preceding year.

27 (3) The number of victims involved in the cases filed.

28 (4) The total aggregate monetary loss suffered by the victims,  
29 including damage caused by the theft.

30 (5) Local moneys available to assist the agencies.

31 (6) The number of licensed recycling facilities in the area.

32 (7) The estimated number of illegal recycling operations in the  
33 area.

34 14190.35. (a) Each agency awarded a grant under the program  
35 during the previous funding cycle shall, upon reapplication for  
36 funds to the department in each successive year and in addition to  
37 any other information required by this title, submit a detailed  
38 accounting of moneys received and expended in the immediately  
39 preceding year.

40 (b) The accounting shall include all of the following information:

1 (1) The amount of moneys received and expended.

2 (2) The use to which those moneys were put, including payment  
3 of salaries and expenses, purchase of equipment and supplies, and  
4 other expenditures by type.

5 (3) The number of filed crime reports, investigations, arrests,  
6 and convictions for metal theft and related recycling crimes that  
7 resulted from expenditure of the funds.

8 14190.40. (a) The department shall regularly review the  
9 effectiveness of the program in deterring, investigating, and  
10 prosecuting metal theft and related recycling crimes and shall,  
11 notwithstanding Section 10231.5 of the Government Code, submit  
12 a report to the Legislature and Governor that is based on reports  
13 submitted to the department pursuant to subdivision (b).

14 (b) Agencies receiving funding from the program shall submit  
15 an annual report to the department that details all of the following:

16 (1) The number of metal theft and recycling crime cases filed  
17 in the immediately preceding year.

18 (2) The number of metal theft and recycling crime cases  
19 investigated in the immediately preceding year.

20 (3) The number of victims involved in the cases reported.

21 (4) The number of convictions obtained in the immediately  
22 preceding year.

23 (5) The total aggregate monetary loss suffered by the victims,  
24 including damage caused by the theft.

25 (6) The number of illegal recycling operations or illegal junk  
26 dealers, or both, shut down.

27 (7) An accounting of moneys received and expended in the  
28 immediately preceding year, which shall include all of the  
29 following:

30 (A) The amount of moneys received and expended.

31 (B) The uses to which those moneys were put, including  
32 payment of salaries and benefits, operating expenses, equipment  
33 purchases, and allowable expenditures.

34 (C) Any other relevant information requested.

35 (c) By no later than December 31, 2019, the department shall,  
36 notwithstanding Section 10231.5 of the Government Code, submit  
37 a comprehensive report to the Legislature on the status and  
38 progress, since the year 2016, of the program in deterring,  
39 investigating, and prosecuting metal theft and related recycling

1 crimes. The report shall be based on each annual report submitted  
2 to the department pursuant to subdivision (b).

3 14190.45. (a) Except as provided in subdivisions ~~(b), (c), and~~  
4 ~~(d), (b) and (c) of this section, and Section 14190.50~~, a fee,  
5 determined by the department, not to exceed 1 percent of the  
6 purchase price for each junk sale, which involves the sale of any  
7 scrap metals or alloys, shall be assessed on the seller of junk for  
8 the purpose of regulating that seller. The fee assessed pursuant to  
9 this section shall be collected by junk dealers and recyclers at the  
10 time each sale is conducted, and shall be submitted to the Controller  
11 for deposit into the fund.

12 (b) Each junk sale or transaction, which involves the sale of any  
13 scrap metals or alloys, between junk dealers and recyclers shall  
14 not be subject to the fee described in subdivision (a).

15 (c) Each junk sale or transaction, which involves the sale of any  
16 scrap metals or alloys, by an automobile dismantler, as defined in  
17 Section 220 of the Vehicle Code, shall not be subject to the fee  
18 described in subdivision (a).

19 ~~(d) This section does not apply to any of the following:~~

20 ~~(1) Secondhand dealers or coin dealers, or both, as defined in~~  
21 ~~Section 21626 of the Business and Professions Code.~~

22 ~~(2) Pawnbrokers licensed pursuant to Chapter 3 of Division 8~~  
23 ~~of the Finance Code.~~

24 ~~(e) For purposes of this section, the following definitions shall~~  
25 ~~apply:~~

26 ~~(1) "Junk" has the same meaning as set forth in Section 21600~~  
27 ~~of the Business and Professions Code.~~

28 ~~(2) "Junk dealer" has the same meaning as set forth in Section~~  
29 ~~21601 of the Business and Professions Code.~~

30 ~~(3) "Recycler" has the same meaning as set forth in Section~~  
31 ~~21605 of the Business and Professions Code.~~

32 14190.50. *This title shall not apply to any of the following:*

33 (a) *A junk sale or transaction, which involves the sale of any*  
34 *scrap metal or alloys, reported by a secondhand dealer or coin*  
35 *dealer pursuant to Section 21628 of the Business and Professions*  
36 *Code.*

37 (b) *A junk sale or transaction, which involves the sale of any*  
38 *scrap metal or alloys, involving either:*

39 (1) *A pawnbroker licensed pursuant to Chapter 3 (commencing*  
40 *with Section 21300) of Division 8 of the Financial Code.*

1     (2) *A secondhand dealer or coin dealer doing business under*  
2     *a secondhand dealer's license issued pursuant to Section 21641*  
3     *of the Business and Professions Code.*

4     ~~14190.50.~~

5     14190.55. (a) The program established pursuant to this title  
6     shall not be implemented until the department determines that  
7     sufficient moneys have been deposited in the Metal Theft Task  
8     Force Fund to implement the provisions of this title.

9     (b) The department shall only be required to implement the  
10    provisions of this title upon the availability of moneys in the fund  
11    in an amount sufficient to cover all costs relating to the startup,  
12    implementation, and continuing administration of the provisions  
13    of this title.

14    ~~14190.55.~~

15    14190.60. The department may adopt regulations as needed to  
16    administer this title.

17    ~~14190.60.~~

18    14190.65. This title shall remain in effect only until December  
19    31, 2020, and as of that date is repealed, unless a later enacted  
20    statute, that is enacted before December 31, 2020, deletes or  
21    extends that date.